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BIHAR STATE BOARD OF RELIGIOUS TRUSTS

NOTIFICATION

The 25th September 2013

Scheme for Singheshwar Sthan Temple

No. 1199.—1. Introduction—This scheme is framed for Singheshwar Sthan Temple Trust under section 32 of the Bihar Hindu Religious Trusts Act, 1950 “(Act 1 of 1951) in the light of the order of the Hon’ble Court in CWJC No. 1255/1996 dated 09-07-2013. The Hon’ble Court directed the Board to formulate the scheme keeping in mind the judgment in the T.S. No. 3/37 by Additional District Judge, Bhagalpur on 10th August, 1945 and affirmed by Hon’ble Patna High Court in Civil Appellate Jurisdiction No. 226/1945 on 09.01.1948. Since this order was not in perpetuity and was to be reviewed after 5 years under clause (f) of the said scheme; it was reviewed in 1995 A.D. by the then District Judge, Madhepura after the direction of the Division Bench of the Hon’ble Court in C.W.J.C. 5788/1993 and since the District Judge, Madhepura, while framing the scheme, took notice of the scheme formulated in T.S. No. 3/37, his scheme, too, could not be completely ignored. But this scheme is, by and large, based on the scheme framed in T.S. No. 3/37 and certain clarifications made herein are incidental in nature and to incorporate certain provisions of some mandatory Statutes which have come into existence after the scheme in 1945 and to make it more crystal clear and practical. But the soul of the scheme is not changed:

2. While framing an idle scheme for the management of a temple an Authority has to make a golden balance amongst following three components:

- (A). Service to deity
- (B). Functions and monetary benefits of the Priest / Pandas and
- (C). Facilities to devotees / pilgrims
- (A). **Service to deity :-** As per the scheme framed under T.S. No. 3/37 Pandas

are to be priests of this temple. Though practically Pandas remain priests of this temple, they don't get any remuneration for this work at present. Consequently, Pandas don't pay adequate attention to the Puja- Archana, Rag-Bhog etc. to the deity except the morning and evening mandatory rituals. In addition, they pay apt attention to individual sponsorship of rituals by devotees who perform Rudrabhishek etc. and give dakshina to them. When such private pujas are not performed, the temple remains largely unattended by Pandas mainly because of the fact that under the original scheme, they were supposed to perform these duties in lieu of the share in surplus which Pandas were suppose to get.

But since they are not being paid anything by the temple trust committee, they are naturally not so attentive. Now under the new scheme some qualified Pandas will be employed for regular Puja- Archana, Rag-Bhog, Utsav-Samaiya etc in the temple and they will be paid decent remuneration for this work.

(B) So far as the functions of and monetary benefits to Pandas are concerned, it is reiterated that the Pandas of 14 families mentioned in the scheme of T.S. No. 3/37 will perform Puja-Archana, Rag-Bhog in the temple. Similarly, these Pandas only be authorized to perform rituals like Mundan, Upanayan, Parinaya(marriage) etc in the temple.

Pandas will get monetary remuneration in three ways:-

- (i) The temple remains open for almost 16 hours every day from morning to the late evening. Pandas do perform morning and evening rituals but they don't get any remuneration for this work. New Pandas will get decent remuneration for this job. If one performs 8 hours duty in one or two shifts, he should get remuneration of a full time employee. If he does four hours duty, then the remuneration will be reduced proportionately. Remuneration may be fixed by the trust committee. If Pandas are not satisfied with it, they may file an appeal before the Board which will decide it after hearing both parties and its decision shall be final. This benefit is given to the Pandas beyond the scope of the scheme framed in T.S. No. 3/37.
- (ii) In the scheme framed in the same T.S. No. 3/37 the Pandas were to get share in the income of the temple and its properties. The income of the temple and its properties has been explained subsequently. It includes income from all sources like offerings, rents, melas, agricultural produces and all rituals also. Mahavir Mandir receives an income of about one and half crore rupees from rituals. The system is that if a devotee has to perform Rudrabhisheka in the temple, he deposits Rs. 750/- to the trust committee and the committee spends almost one-third on the materials to be used in the Rudrabhisheka and give one-third as dakshina to priests and remaining one-third goes to the trust. Similarly for every ritual a fee should be determined by the trust committee and a good share should go to the head priest and his assistant, if any. If a barber, a mali and such traditional skilled persons also help in the performance of Karm- kanda, like Mundan, Upanayan, Parinaya, Rudrabhishek, they too, should get some share. Dakshina to

priests should be normally equivalent to that amount which a priest or a skilled person should normally get, while performing that ritual. It should be decided by the trust committee and if any section is dissatisfied with the order of the Committee, it will file an appeal to the Board which will decide it after hearing concerned parties and the Boards' decision shall be final.

- (iii) For getting share from the surplus amount determined by the original scheme all Pandas of 14 branches will be entitled to it. But for getting the share their names, qualifications and other details will have to be submitted to the trust committee. The Pandas had lost the title suit No. 3/37 on all issues, even then shares from surplus were given to them for maintenance of their families. Therefore, all Pandas, irrespective of their qualifications will be entitled to surplus determined herein under except those who are employed or doing business. To make it clear, it is reiterated that an illiterate and poor Panda dependent on the temple income will be entitled to the share but the Panda who has got some job or is doing business will not be entitled to shares. But since Pandas' share amounts will be deposited in their General Body's accounts, it will increase the share of less fortunate Pandas who are not employed or in business. The share will be in addition to the remuneration which an individual Panda gets either as service to the deities or daskshina for Karm Kand.

(C). So far as facilities to devotees/ Pandas are concerned, fees to be charged from the devotees must clearly indicate the exact amount including dakshina to be paid by the devotee to the trust committee, so that the devotees are not fleeced by anyone in the temple. The list of fees for rituals should be shown prominently in the temple premises. The system is running successfully in Mahavir Mandir, Patna , Garib Nath Mandir, Muzaffarpur and some other temples. If any Yajaman wants to donate more than the required fee he can donate the money either in donation box or deposit it in the account of the trust committee. This system is meant for all rituals like Rudrabhisheka, Mundan, Upanayan, Parinaya(marriage)etc performed in the temple premises. If it is performed at Pandas' homes, they are entitled to get whatever amounts are given to them.

3. Qualifications:- Priests performing routine Puja and special rituals will be entitled to remuneration in addition to their share in the surplus. But for doing such important duties their minimum qualification will be Shastri degree from any Sanskrit University or B.A. with Sanskrit from any general University. If any priest is not holding such degree but is well-versed with scriptures and his pronunciation is good, then he, on application, will be tested by an expert committee of Sanskrit scholars nominated by the Trust Committee with the approval of the Board. If the expert committee certifies that the priest is well-versed with scriptures and his pronunciation is good, he shall be entrusted with performing Puja or special rituals as per his qualification. A Panda rejected by the committee will have the right to file an appeal before the Board which after hearing both parties will decide the case and its order shall be final.

4. Explanation on the income of the Temple and its properties and their expenditure:-

- (a) The scheme in T.S. No. 3/37 envisaged that after defraying certain expenses whatever surplus was left, one third would be kept in reserve fund and remaining amount would be given to Pandas. But since no limit on expenditure was fixed,

the practical reality was that they got nothing during many financial years. The scheme duly framed by Shri Priya Sharan, learned District Judge, Madepura indicated percentage of income on expenditure under many heads while preparing budget but did not indicate as to what amount would be given to Pandas except mere mention of some welfare fund meant for the education of Pandas' children. If the expenditure under scheme framed by the learned District Judge Sri Priya Sharan is calculated, the expenditure will roughly go around 90 % of the income. However, he did not mention that the remaining amount would go to Pandas for education of their children. He kept it wide open.

Besides, in spite the fact that the temple trust has got adequate surplus, it has not been registered with Income Tax Department as a charitable institution with the result that income taxes have to be paid on all surplus amounts of the past and future. If the temple trust is registered as a charitable institution under Section 12(AA) of the Income Tax Act, 1961, they are supposed to spend at least 85 % of the income and then it will not have to pay any tax on the remaining amount. But for being declared as a charitable trust the temple trust has to do some substantial charitable work; otherwise they will have to pay an income tax on the surplus of their total income. Similarly rent, holding taxes and Board fees have to be paid regularly. Under the new scheme the mandatory taxes have to be included in the expenditure.

Now the new items of expenditure have to be included in the following manner:-

- (i) Income Tax and other statutory taxes on the surplus income.
- (ii) Holding Taxes:- Since there are a large no. of shops on rent under the trust; it has to pay huge holding tax to the Municipal authority. It is learnt that like income tax a substantial amount has to be paid under the holding taxes.
- (iii) Fees to be paid to the Board:- Four percent of the total income has to be paid to the Board as its fee under section 70 of the Act.
- (iv) Rent and other mandatory fees, if any, have to be paid on time.
All pending should be cleared at the earliest.
- (v) Emoluments to be paid to Pandas for routine puja and special rituals as mentioned above.

These are new areas which cannot be avoided either under law or for running the temple smoothly. The remaining items of expenditure such as Rag-Bhog, festivals, rituals, salary, agriculture, repairs are well known and included in every years' budget. The renovation and construction of temples and dharamshalas and establishment of charitable institutions like hospitals and subsidized schools give teeth of charity to the trust and helps in saving the income-tax. It adds reputation to the institution.

- (b) Similarly sources of income are well known. All the sources like offerings, amounts from rituals, rent, mela, produce from the agriculture, donation etc will be included. While calculating amounts received from donation a distinction will be made between general donation and donation for creating Corpus Fund.

Under the provisions of the Income Tax Act, the corpus fund is not included in the total income of the trust. Section 11 (1)(d) of the Income Tax Act, 1961 reads as follows:-

“Income from Property held for charitable or religious purposes.-(1)

Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the

income..... (d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.”

Corpus fund is a fund which is donated by a particular donor for doing a particular work which cannot be transferred to other fund. For example, if a donor gives Rupees one crore for establishment of a charitable hospital and donates it to the corpus fund of that scheme, then no income tax is levelled on this amount. Similarly no Board fees are paid on this amount. It is not considered as the income of the trust because the contribution on the establishment of the hospital are nothing else and it cannot be transferred to any other head. Thus this donation under corpus fund in the temple will not be considered an income of the temple trust. But if the Donor gives a donation of Rupees one crore as a general donation and doesn't pray for keeping it as Corpus Fund; this may be included in the income of the temple trust for calculating the share of the Pandas.

5. Calculation of shares to Pandas:

After explaining the income and expenditure of the trust committee a limit is put on the total expenditure in order to safeguard the interest of Pandas. After leaving corpus fund and paying mandatory taxes like land revenue, holding tax, income tax and fees to the Board the temple trust shall not spend more than 85 % of the remaining income. And even if it spends more than 85 % of its income, for the calculation of share to Pandas, it shall be treated as 85% expenditure only. Out of the remaining 15 % of the surplus one third will remain as reserved fund of the trust and 10% will be given to the Pandas of the 14 families. The amount may be given to a Body of the Pandas which shall be registered under some Act. Pandas will share that amount in accordance with the percentage of shares as they have obtained in the past as per the order of the court or some tradition which has been in existence on record. According to the new Scheme those persons, who are in service or business will not be entitled to this amount, as this amount is meant for the maintenance of Pandas. But even illiterate and poor Pandas dependent on the temple can get this amount. This share is in addition to the sums received by Pandas for their routine service to the deity for Puja and their dakshina for specific rituals.

The following table of calculation will make it crystal clear:-

Total Income of the Singheshwar Trust from all sources	-	1, 25, 00,000=00
Corpus Fund	-	<u>(-)10, 00,000=00</u>
Actual Income	-	<u>1, 15, 00, 000=00</u>
Mandatory Expenditure like income tax, holding tax, Rent , Board Fees	-	<u>(-)15, 00,000=00</u>
After Deduction	-	<u>1,00,00,000=00</u>
85% of this income will be spent on expenditure	-	<u>(-)85, 00,000=00</u>
and the remaining 15% will be left	-	<u>15,00,000=00</u>
Out of this amount one third will be the Reserve Fund i.e.	-	<u>(-)5,00,000=00</u>
Remaining amount will go to the Pandas	-	<u>10,00,000=00</u>

Even if the trust committee spends more than 85,00,000/- the Pandas' share will not be reduced below Rs. 10,00,000/-. The remaining 10 lakhs shall be spent on the maintenance of Pandas dependent on the temple. This amount of 10 lakhs will be in addition to a substantial amount spent on remuneration for service to the deity and daskhina. Since the temple trust has not paid huge taxes like income tax, holding tax etc. it is directed to pay all taxes at the earliest. If any amount is surplus, that should be kept in Reserve Fund. Since Pandas were deprived of their shares because of the new scheme

framed by the District Judge, Madhepura in 1995 after the direction from the Hon'ble High Court, they are not entitled to payment of any share in arrears.

But now they will be paid their share from the date of the notification of this scheme in the State Gazette. The amount of their share will be transferred to the account of their registered General Body in every quarter without fail. If the trust committee fails to transfer their share in stipulated period, they will have to pay an interest at the rate of 12% per annum. Pandas will make their own byelaws for the smooth functioning of the Body within three months from the date of publication of the scheme in the State Gazette and distribute their share amount accordingly. The General Body of the Pandas will send a copy of the bye-laws to the Trust Committee and the Board for keeping it on record. It will also furnish details of the Pandas' names, father's names, qualification, whether in service/business or not and the amounts to be received by each Panda from the share to the Trust Committee.

6. Disentitlement :- According to the Judgment in T.S. No. 3/37 affirmed by the Division Bench of the Hon'ble High Court Pandas were expected to cooperate with the manager and the trust committee. It was ordered therein that should the committee have reasons to believe that they are withholding such cooperation and obstructing either the Manager or the committee in the discharge of their functions, a report to that effect will be made by the committee to the District Judge (now read the Board) who after hearing them will pass orders, if satisfied that the report of the committee is correct, disentitle them to the surplus and it will be open to the committee to appoint sufficient number of Pujaris on fixed monthly remuneration after obtaining sanction of the District Judge (now read the Board). The implied meaning of this clause is that non-cooperation of Pandas with Manager or the Trust Committee will disentitle them to any share in the income of the temple and its properties. Another implied meaning is that when the Pandas are getting shares they will not be entitled to any remuneration for routine puja etc. Only after they are disentitled, Pujaris will be appointed. But in the new scheme Pandas will get share as well as remuneration for their routine priestly work and performing individual rituals in the temple premises. Therefore this disentitlement to shares is clarified in the following manner:-

Pandas will be disentitled to shares, if

(i) they withhold cooperation and obstruct the functioning of either the Manager or the Trust committee.

(ii) they pilfer offerings from the temple.

(iii) they charge any amount other than the fixed one from Yajamans as Dakshina or any gift in cash or kind from him or any devotee.

The income and expenditure shall be annually audited by a Chartered Accountant and the audit report shall be sent to the Board by the Trust Committee within 3 months from the date of expiration of the financial year.

7. Constitution of the Committee:

In view of the judgment of the Division Bench of the Hon'ble High Court in CWJC No. 4494/1987 a committee cannot be constituted without framing the scheme. Therefore, no committee is constituted at this stage u/s 32 of the Act. It will be constituted by the Board under section 32 read with the Amendment by an Act 1 of 2007 in the light of the judgment of Additional District Judge in T.S. No. 3/37 and subsequent review of the District Judge, Madhepura after the direction of the Division Bench of the Hon'ble Court. If the total number of the members of the Trust Committee is raised from 5 to 11 in the new committee, the number of Pandas will naturally be raised to two. Meanwhile the Sub Divisional Magistrate, Madhepura will work as temporary trustee u/s

33 of the Bihar Hindu Religious Trust Act until a new committee is constituted by the Board. The present committee shall cease to function from the date of publication of the scheme in the State Gazette as its tenure has already expired. A supplementary scheme will be framed for the functioning of the Committee to be constituted shortly.

By Order,
KISHORE KUNAL,
President.

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